

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



February 28, 2003

FOSTER CARE RATES LETTER (FCRL) NO. 2003-01**TO: ALL FOSTER FAMILY AGENCY (FFA) PROVIDERS****SUBJECT: FOSTER FAMILY AGENCY RATE REQUEST REQUIREMENTS AND
NOTICE OF IMPORTANT CHANGES TO THE FOSTER CARE
RATESETTING PROCESS**

This letter is to advise you of the requirements for submission of this year's FFA rate request. This letter also contains information about proposed legislation that would impose a biennial rate request requirement. **Please read this entire letter so that you will be aware of the changes affecting your responsibilities.**

PROPOSED LEGISLATION REGARDING BIENNIAL RATE PROCESS

Proposed statutory amendments to Welfare and Institutions Code (WIC) Section 11463 would change the requirements for submission of an FFA rate request from annually to once every two years (biennially). The change in statute also allows the California Department of Social Services (CDSS) to establish a submission schedule by which providers will submit a biennial rate request in order to continue receiving an FFA rate. Lastly, the legislation allows CDSS to develop regulations for implementation of the biennial process on an emergency basis.

It is anticipated that the legislation imposing these changes will take effect by April 1, 2003. Due to the changes to the WIC, it will also be necessary to revise some of the sections of the regulations regarding ratesetting contained in the Manual of Policies and Procedures (MPP) to implement the biennial rate process. The CDSS is currently drafting emergency regulations to take effect shortly after the passage of the legislation. Notice of the emergency regulations will be provided via the regulation adoption process. In the interim, providers should continue to comply with existing ratesetting requirements.

The information below reiterates existing ratesetting requirements that are still in effect and also provides a summary of anticipated actions CDSS will take to implement the biennial requirement in the event this legislation is passed.

RATE REQUEST SUBMISSION SCHEDULE

Consistent with the proposed statutory changes, CDSS has developed a rate request schedule to implement the biennial submission requirement. Under this schedule, half of the FFA providers will have their rate request reviewed in one year and the remaining half in the following year. For FFA providers whose first 4 digits of their program number end in an odd number, submission of a biennial rate request will be in an odd-numbered calendar year (CY). Similarly, FFA providers whose first 4 digits end in an even number will submit a biennial rate request in even-numbered CYs. The submission schedule that will take effect upon passage of the proposed legislation is as follows:

CY 2003	Odd-numbered programs;
CY 2004	Even-numbered programs.

EXAMPLE: Provider program number **3005**.01.01 is an odd number based on the last number of the first 4 digits of the program number. This provider would submit a request for each of its programs with the 3005 provider program number in odd-numbered years. A provider program number such as **2766**.01.01 is an even number which requires submission of a biennial rate request in even-numbered years.

An FFA provider with an odd program number will have the program rate established for a two-year period and will not be required to submit a rate request until 2005. An FFA provider with an even program number will have its program rate established for a one-year period and will be required to submit a rate request in 2004 in accordance with the new biennial submission requirements.

Please note that because passage of these proposed statutory amendments are scheduled to occur at approximately the same time that rate requests are due, all providers are required to submit a rate request this year.

In the event that a provider submits a rate request this year for which CDSS determines is unnecessary due to the biennial cycle, the rate request will not be reviewed, and will only be returned if the provider submits a self-addressed, stamped envelope for its return. However, the provider will receive a rate letter continuing the program rate for another year. In addition, those providers will be required to submit a rate request next year. Providers will be notified in advance of the rate request submission due date for CY 2004.

RATE REQUEST DUE DATE

Please be aware that the rate request due date for this year has not changed. A complete annual FFA rate request must be postmarked on or before April 1, 2003.

Current regulations require that a rate request is due on or before April 1st from FFA providers. Therefore, all providers must continue to submit the rate request as required.

COMPLETE RATE REQUEST

A complete rate request must be submitted for each program provided by a foster family agency in order to receive a rate for that program. Please refer to the instructions on the reverse side of each form when preparing the rate request. The instructions will assist you in completing the rate request package correctly. A complete FFA rate request should include:

1. A complete set of FCR/FFA forms
 - Foster Family Agency – Data and Certification Sheet (FCR 1FFA) with original signature
 - Program Description Checklist (FCR 2FFA)
 - Days of Care Schedule (FCR 3FFA)

NOTE: The Total Program Cost Display (FCR 12FFA) is no longer required as part of a complete rate request. However, this form is still required in order to receive a rate and must now be submitted with the financial audit report (FAR). Please see the section that follows entitled, “Financial Audit Report.”
2. A copy of the current license(s) issued by Community Care Licensing (CCL) for each program, including any sub-office license(s), if not previously submitted.
3. A copy of the non-profit corporation’s current tax exempt status letter from either the Internal Revenue Service (IRS) or the California Franchise Tax Board (CFTB) designating the organization as tax exempt, if not previously submitted.
4. An endorsed copy of the non-profit corporation’s Articles of Incorporation filed with the California Secretary of State, if not previously submitted.
5. A copy of the credentials for each new social worker providing services for the program hired since April 1, 2002. (If the social worker does not have the required educational qualifications as specified in Health and Safety Code Section 1506(e) and California Code of Regulations Section 87065.3, an exception from CCL is required.)
6. A list containing the name, address, telephone number, and position of the current members of the non-profit corporation’s Board of Directors.

7. A declaration that the program will operate during the fiscal year in the public interest for scientific, education, service or charitable purposes; is not organized for profit making purposes; and, uses its net proceeds to maintain, improve or expand its operations. Each member of the Board must sign the declaration, or in the alternative, a copy of the Board resolution declaring non-profit operation certified by the Board Secretary may be submitted.

Providers with Internet access can obtain the FCR FFA forms online at the following address: www.dss.cahwnet.gov/cdssweb/On-lineFor_271.htm. Providers without Internet access can obtain a copy of the forms by contacting the Foster Care Rates Bureau (FCRB). If using FCR FFA forms other than those available via the Internet, please ensure you are using the most current form revision (see MPP Section 11-406).

GOOD CAUSE REQUESTS

A provider who is unable to submit a complete rate request by the April 1, 2003 due date because of circumstances beyond the provider's control may submit a "good cause" request to extend the due date. Typical circumstances that constitute good cause include, but are not limited to, natural disasters and emergency medical situations (MPP 11-400g.(1)).

The procedures for submitting a good cause request are contained in MPP Section 11-403(l). **A good cause request should be submitted by a provider to the FCRB separately from the rate request and must be postmarked within 5 calendar days of the rate request due date. For the current ratesetting period, a good cause request must be postmarked on or between March 27 and April 7, 2003.** (This year the fifth calendar day following the April 1 due date is April 6th, which is a Sunday. Therefore, the rate request is due the next calendar day, Monday, April 7th. The provider should take care to ensure that mail will receive a postmark within the allowed good cause request period when depositing mail with the U.S. Postal Service.) The good cause request must contain a clear statement requesting good cause and include the specific reason(s) for submitting an incomplete or untimely rate request. The written request for good cause should also include the name, location and program number of the affected program; the name, address and telephone number of the provider; and, the name, address and telephone number of the contact person. Please be aware that good cause requests that are granted only extend the due date an additional 30 days from the postmark date of the FCRB's letter approving the good cause request. Once the 30-day time period has expired, penalties will apply and be imposed consistent with MPP Sections 11-403(f)(1)(D) and 11-403(f)(2)(B).

Please also be aware that good cause requests should not be submitted and/or signed by a certified public accountant (CPA), state-licensed public accountant (PA), or

consultant as it is the provider's responsibility to manage the operation of the program, be aware of all business transactions impacting the program, and to make good cause requests on behalf of the program.

TIMELINES AND PENALTIES

In accordance with the MPP Section 11-403(f)(1)(D), **a complete annual FFA rate request must be postmarked on or before April 1, 2003** to be considered timely. A rate request that is postmarked after or remains incomplete after this date is subject to the penalty procedures specified in MPP Section 11-403(f)(2)(B). **Furthermore, if the rate request is not postmarked by July 1, 2003, the rate will not be set and no AFDC-FC funds will be provided after September 1.** A rate request that is late or incomplete is subject to the following penalties as provided in MPP Sections 11-403(f)(1)(D) and 11-403(f)(2)(B).

- Submitted from one day to one month late, the effective date of the rate will be August 1;
- Submitted from one month and one day to two months late, the effective date of the rate will be September 1;
- Submitted from two months and one day late or later, but before July 1, the effective date of the rate will be October 1;
- If the rate request is not postmarked on or before **July 1, 2003, the rate request will not be accepted, and a rate will not be set for the fiscal year and AFDC-FC funds will not be received after September 1.**

A program rate which cannot be set for failure to submit a timely or complete rate request can be reestablished by meeting the requirements of MPP Section 11-403(f)(3). However, the new rate will be set at the lesser of either the provider's rate for the prior fiscal year or according to the FFA Schedule of Rates for the current fiscal year. As a result, if a cost of living adjustment (COLA) has been provided pursuant to the Budget Act for that year, the reestablishment process may result in loss of the COLA for the remainder of the fiscal year.

Please Note: If a private consultant or CPA completes and/or mails a rate request and/or a financial audit report on behalf of a program, responsibility for the content of the documents filed and the date of filing remains with the provider. A private consultant's/CPA's failure to submit a rate request or financial audit report will not excuse untimely submission of a complete rate request and may result in a penalty.

The proposed regulations implementing the biennial process will probably change the penalties associated with submission of the rate request. Since the rate request period is no longer tied to a single fiscal year, the penalties will need to be modified to be consistent with the biennial process. All providers will receive notice of the emergency regulations when filed.

FINANCIAL AUDIT REPORT (FAR)

AB 444 amended WIC Section 11466.21 such that a FAR is no longer required as a component of any AFDC-FC rate request. However, a FAR is still required as a condition to receiving an AFDC-FC rate. MPP Section 11-405.2 has been revised to address the changes to the financial audit process, including auditing standards for providers to follow and the new due dates for FARs. The regulations containing the changes to the financial audit requirements can be accessed at the following website: www.dss.cahwnet.gov/getinfo/pdf/fcmand.pdf.

Beginning April 1, 2003, Office of Management and Budget Circular A-133 (A-133) standards will be required for a non-profit corporation that operates a group home and/or a FFA program which receives \$300,000 or more in combined federal funds for all of its programs and activities during the non-profit corporation's fiscal year. A non-profit corporation that meets the A-133 funding threshold (\$300,000 or more) will be required to submit a FAR in accordance with A-133 standards annually. A non-profit corporation whose fiscal year began prior to April 1, 2003, has the option to submit a FAR in accordance with *Government Auditing Standards* or A-133 standards. Subsequent audits, however, will be required to meet the new A-133 standards.

In accordance with WIC Section 11466.21(a)(2), a non-profit corporation that is exempt from the A-133 standards (less than \$300,000) will be required to submit a FAR once every three years. *Government Auditing Standards* (Yellow Book) will continue to be the audit standard for those group home and FFA non-profit corporations that receive less than \$300,000 in combined federal funds. On November 6, 2002, the CDSS sent a notice to each non-profit corporation identified as receiving less than \$300,000 (based on previous FARs submitted) advising them of the date that submission of the FAR is required for the first triennial period.

For all financial audits conducted, the audit must now also include cost data as reported on the December 2002 version of the Total Program Cost Display (FCR 12FFA) (www.dss.cahwnet.gov/pdf/FCR12FFA.PDF). For those non-profit corporations whose fiscal year began prior to April 1, 2003, audited cost data will not be required to be submitted with the FAR. These corporations will be required to submit unaudited cost data with the FAR. However, in subsequent years the cost data must be audited.

A non-profit corporation should engage a CPA or PA well enough in advance of the due date to allow sufficient time for completion of the audit. Most accountants will need at

least three months to complete the audit. The California Board of Accountancy can be contacted for licensure status and general information about selecting a CPA or PA by accessing their website at www.dca.ca.gov/cba or by calling (916) 263-3680.

Although some non-profit corporations are not required to submit FARs every year, each non-profit corporation must maintain appropriate financial records at all times. MPP Section 11-402.52 requires providers to maintain program records for a minimum of five years. In addition, a non-profit corporation is responsible for preparing financial statements in accordance with Generally Accepted Accounting Principles, while the CPA or PA is responsible for auditing the financial statements and issuing an opinion on the statements. In order for the CPA or PA to complete the financial audit for the year required and to avoid issuing a “disclaimer of opinion”, the non-profit corporation must provide the CPA/PA complete and accurate financial documents.

AB 444 also amended WIC Section 11466.21(c) to allow group home and FFA non-profit corporations that receive less than \$300,000 and that meet other eligibility criteria to apply for and receive partial reimbursement of the costs of the financial audit. To apply for financial assistance related to the cost of the FAR, the non-profit corporation must submit to CDSS an acceptable FAR and any other relevant documents needed to validate the claim for reimbursement. Failure to submit all required documentation timely may result in the inability to provide reimbursement for the claim since funding for financial audit cost reimbursement is limited and allocated on an annual basis in the State Budget Act.

Please note that it is imperative for each non-profit corporation to submit a FAR which meets appropriate A-133 or *Government Auditing Standards*. A non-profit corporation that fails to submit an acceptable FAR by the required due date is subject to rate termination pursuant to MPP Section 11-405.219.

Further guidance and details on the revised financial audit requirements will be provided soon. In the interim, should you have any questions regarding the financial audit process or the due date for your non-profit corporation's FAR, please contact the Financial Audits and Investigations Bureau at (916) 274-0445.

INITIAL RATE

Recently adopted regulations modified the provisions of MPP Section 11-403(g)(1)(C) regarding an initial rate for an FFA provider. The change eliminates the rate request submission scheme contained in the regulation section and instead requires that an FFA provider submit a request in compliance with MPP Section 11-403(f)(1)(B).

WHERE TO SEND RATE REQUESTS

A complete rate request should be mailed to:

**California Department of Social Services
Foster Care Audits and Rates Branch
Foster Care Rates Bureau
744 P Street, M.S. 19-74
Sacramento, CA 95814**

If you have any questions about the rate request process or forms, please contact your Foster Care Rates Consultant. For any questions about the financial audit report, please call the Financial Audits and Investigations Bureau at (916) 274-0445.

Sincerely,

Original signed by

SHEILAH DUPUY, Chief
Foster Care Rates Bureau